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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,585	05/17/2002	Harald Gerard Swinkels	Career-1 (P53566US00)	9699

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EXAMINER

LOFTIS, JOHNNA RONEE

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 11/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/049,585

Applicant(s)

SWINKELS ET AL.

Examiner

Johnna R. Loftis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 May 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a first office action upon examination of application number 10/049,585. Claims 1-10 are pending and have been examined on the merits discussed below.

Response to Amendment

2. Preliminary Amendment has been considered by Examiner.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 10 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. As claimed, nonfunctional descriptive material is recorded on some computer-readable medium, in a computer or on an electromagnetic carrier signal and is considered not statutory since no requisite functionality is present to satisfy the practical application requirement. Merely claiming nonfunctional descriptive material, i.e., abstract ideas, stored on a computer-readable medium, in a computer, or on an electromagnetic carrier signal, does not make it statutory. See *Diehr*, 450 U.S. at 185-86, 209 USPQ

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1, 3, 4, 8, 9 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Smith, US 6,701,313.

As per claim 1, Smith teaches having the user select a company from a list of predetermined companies (column 13, lines 55-65 – user selects a company he wishes to apply to; column 16, lines 12-21); selecting a predetermined number of questions from a list of career-oriented questions especially developed for that company (column 13, lines 55-65 – a test is dynamically generated from questions in the test question database; column 16, lines 12-32); presenting the selected career-oriented questions to the user (column 16, lines 12-32 – user is presented with test questions); receiving answers of the user to the career-oriented questions (column 16, lines 12-32 – user answers test questions); determining whether the user fits in with

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the career associated with the company, and if so, sending the personal data of the user to a company, provided the user has given permission to do so (column 16, lines 12-34 – if user passes test, results are sent to the job provider); if not, reporting to the user that he/she does not fit in with a career associated with the company.

As per claim 3, Smith teaches prior to the selection of the company, presents a company selected test to the user in which the apparatus compares wishes and requirements in respect of a career as received from the user with company profiles of a number of companies and determines which of the company profiles fits the wishes and requirements of the user best (column 13, lines 55-65 – a test is dynamically generated from questions in the test question database; column 16, lines 12-32 – user is presented with test questions; if user passes test, results are sent to the job provider; an offer may be presented to the candidate wherein the candidate may select the company to work for).

As per claim 4, Smith teaches the apparatus can receive per company a set of weighting factors per career-oriented question and can have same included in weighting when determining whether the user fits in with any of the careers associated with the company (column 14, lines 49-63 – each question is given a difficulty ranking which is used to award points as a way to score tests).

As per claim 8, Smith teaches having the user select a company from a list of predetermined companies (column 13, lines 55-65 – user selects a company he wishes to apply to; column 16, lines 12-21); selecting a predetermined number of questions from a list of career-oriented questions especially developed for that company (column 13, lines 55-65 – a test is dynamically generated from questions in the test question database; column 16, lines 12-32);

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presenting the selected career-oriented questions to the user (column 16, lines 12-32 – user is presented with test questions); receiving answers of the user to the career-oriented questions (column 16, lines 12-32 – user answers test questions); determining whether the user fits in with the career associated with the company, and if so, sending the personal data of the user to a company, provided the user has given permission to do so (column 16, lines 12-34 – if user passes test, results are sent to the job provider); if not, reporting to the user that he/she does not fit in with a career associated with the company.

As per claim 9, it is directed to the computer program product for performing the method of claim 8 therefore, since Smith teaches a computer implemented method of claim 8, the same rejection as applied to claim 8 also applies to claim 9.

As per claim 10 teaches a data carrier provided with a computer program product according to claim 9. Since Smith teaches a computer-implemented method of claim 9, the same rejection as applied to claim 9 also applies to claim 10.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith, US 6,701,313.

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As per claim 2, Smith teaches an interview request screen wherein a user can schedule an interview but does not explicitly teach the apparatus is arranged, in presenting the career-oriented questions, to display an office space with a person, with whom a virtual interview can be conducted. However, Harless et al teaches an interactive simulated dialogue over a network wherein users can communicate over the Internet using combined audio and video recognition technology to allow a user to speak naturally and conduct a virtual interview with images of a human character. Since Smith teaches interviewing as the next step in the online matching testing job website, it would have been obvious to incorporate Harless et al's virtual interview as a more convenient way to interview qualified subjects. A benefit of the virtual interview is that subjects do not have to travel to complete an interview.

As per claims 5 and 6, Smith teaches each question is given a difficulty ranking which is used to award points as a way to score tests but does not teach a second and third set of weighting factors used when determining which of the company profiles fits the wishes and requirements of the user best. However, it would have been obvious to one of ordinary skill in the art at the time of the invention that each company may have different weighting factors that are used in the determination. As taught in Smith, the company uses easy, medium and hard as difficulty rankings for questions, but it would have been obvious to vary from these weighting factors to include other similar weighting factors. The differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the

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prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP § 2106.

As per claim 7, Smith teaches the job seeker clicking on a link representing the job opportunity wherein the click is communicated back to a web server which then displays a job apply screen and subsequently the career oriented questions, but does not explicitly teach a representation of a central hall of an office building with hyperlinks to websites of the predetermined companies. However, since it was old and well known at the time of the instant invention to create websites including virtual rooms, etc., it would have been obvious to modify Smith's representation of the hyperlinks to include a representation of a central hall of a building including the hyperlinks. This modification would enhance Smith by including a user-friendly format wherein users can link to jobs they are interested in by perusing a "central hall" rather than simply clicking on a link.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Standen, Karyn. Nortel's job fair a virtual success: Online recruiting station reaches audience in Boston

Kennedy, Joyce Lain. Videoconferences soon may be a venue for many job interviews.

Kurzuis et al, US 6,385,620 – system and method for the management of candidate recruiting information

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McGovern et al, US 5,978,768 – computerized job search system and method for posting and searching job openings via a computer network

Eisendrath et al, US 6,347,333 – online virtual campus

Pasternak, Ceel. A wave of the future.

Davey, Brett. Screen test: Interviewing candidates via video hookup.

Williams et al, US 6,618,734 – pre-employment screening and assessment interview process

Fatseas et al, US 5,671,409 - computer-aided interactive career search system

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnna R. Loftis whose telephone number is 571-272-6736. The examiner can normally be reached on M-F 8am-4:30pm.

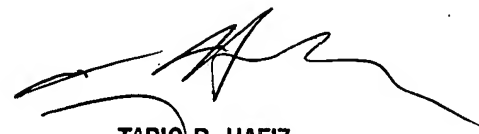
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JL

11/24/06



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